

<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional)  05-646									
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]  on _____  Signature _____  Typed or printed name _____		Application Number  10/553,251	Filed  January 31, 2007								
		First Named Inventor  Georg Roeder									
		Art Unit  3732	Examiner  R. K. Doan								
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top; padding: 5px;"><input type="checkbox"/> applicant/inventor.</td><td style="width: 50%; vertical-align: top; padding: 5px;">/Gregory P. LaPointe #28395/ <div style="text-align: right;">Signature</div></td></tr><tr><td style="vertical-align: top; padding: 5px;"><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td style="vertical-align: top; padding: 5px;">Gregory P. LaPointe <div style="text-align: right;">Typed or printed name</div></td></tr><tr><td style="vertical-align: top; padding: 5px;"><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>28,395</u></td><td style="vertical-align: top; padding: 5px;">203-777-6628 <div style="text-align: right;">Telephone number</div></td></tr><tr><td style="vertical-align: top; padding: 5px;"><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td style="vertical-align: top; padding: 5px;">September 15, 2010 <div style="text-align: right;">Date</div></td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<input type="checkbox"/> applicant/inventor.	/Gregory P. LaPointe #28395/ <div style="text-align: right;">Signature</div>	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	Gregory P. LaPointe <div style="text-align: right;">Typed or printed name</div>	<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>28,395</u>	203-777-6628 <div style="text-align: right;">Telephone number</div>	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	September 15, 2010 <div style="text-align: right;">Date</div>
<input type="checkbox"/> applicant/inventor.	/Gregory P. LaPointe #28395/ <div style="text-align: right;">Signature</div>										
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	Gregory P. LaPointe <div style="text-align: right;">Typed or printed name</div>										
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>28,395</u>	203-777-6628 <div style="text-align: right;">Telephone number</div>										
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	September 15, 2010 <div style="text-align: right;">Date</div>										
<input type="checkbox"/> *Total of _____ forms are submitted.											

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

## Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Initially, Applicant wishes to urge that the instant amendment after final should be entered as the amendment merely incorporates into independent claim 57 the subject matter of dependent claim 58 which previously depended directly from independent claim 57. Accordingly, the instant amendment does not raise new issues which require further search and/or consideration. The amendment also reduces the number of claims for purposes of appeal as well as reduces the issues for purposes of appeal. Accordingly, Applicant submits that the instant amendment is properly entered at this stage in the prosecution.

Claims 59 and 60 have been amended so as to depend directly from independent claim 57 rather than dependent claim 58 which is now cancelled. Claim 106 has been amended so as to comply with 35 U.S.C. 112, second paragraph. None of these amendments are improper at this stage of the prosecution and therefore should be entered for purposes of appeal.

It is respectfully submitted that all of the claims as amended comply with the formal requirements of 35 U.S.C. 112, first and second paragraphs, and patentably define over the prior art under 35 U.S.C. 103 for the reasons set forth hereinbelow.

Initially, with regard to the Examiner's drawing objections as set forth on pages 2 and 3 of the Examiner's final rejection, Applicant respectfully requests the Examiner to reconsider this objection. In this regard the Examiner's attention is drawn to Figs. 9 and 10 which clearly show the connecting parts identified by reference numerals 910 and 1010. In addition, the Examiner's attention is drawn to paragraph [0056] of the

substitute specification (page 19) which describes Figs. 9 and 10 and discusses the connecting parts 910 and 1010, respectively. In light of the foregoing, it is respectfully submitted that the drawings as currently pending are in compliance with 37 C.F.R. 1.21 and 37 C.F.R. 1.83.

The Examiner rejected previously submitted dependent claim 58 (which has now been incorporated into independent claim 57) under 35 U.S.C. 103 as being unpatentable over Karl (EP 0038524) in view of Forsline (U.S. Patent 5,749,117) and in further view of Vayrette (U.S. Patent 6,672,314). As to how this rejection applies to the claims as amended herein, it is respectfully traversed.

Initially, with respect to the Forsline '117 document, Applicant submits that this piece of prior art constitutes non-analogous prior art. The Forsline document is drawn to a paint brush. It is difficult to imagine that one skilled in the art when dealing with an applicator for distributing a cosmetic preparation on the skin would look to a paint brush for relevant teachings. Accordingly, it is respectfully submitted that the Forsline reference constitutes non-analogous art. Be that as it may, the Examiner's interpretation of the Forsline reference is without merit. The Examiner states on page 4 of the Office action that Forsline discloses the following:

"... the applicator portion being made of thermoplastic elastomer having a hardness of between 2 and 45 Shore A...".

The Examiner's position is untenable when one reads the Forsline document. Contrary to the Examiner's statement of a teaching, the Forsline document actually sets forth that the "...hardness, after cure, of about 20-70..." and "...the catalyst used to cure the preferred silicone is platinum based...". One skilled in the plastics art knows that elastomers are not cured.

Accordingly, the material of Forsline is not the material of the instant application.

Be that as it may with regard to the Forsline patent, the tertiary reference to Vayrette fails to teach the subject matter of previously submitted dependent claim 58 which has now been incorporated into the independent claim 57. Claim 57 as amended now sets forth the following:

"...connecting layer (32) comprising a mixing layer comprising the applicator portion plastic material and the holding portion plastic material."

Thus, the connecting layer 32 is a mixture of the materials of holding portion 18 and applicator portion 30. In this regard the Examiner's attention is drawn specifically to paragraph [0047] of the substitute specification with particular emphasis on the last twelve lines of that paragraph which set forth the following:

"...the applicator portion 30 of thermoplastic elastomer, silicone rubber, NBR, soft PVC or the like is injected on to the holding portion 18 immediately after injection-molding thereof, a connecting layer 32 is formed, in which the various kinds of plastic materials of the holding portion 18 and the applicator portion 30 mix and mingle with each other (for example by diffusion). When such an applicator is cut open, that mixing layer can be seen and analysed with the naked eye or under the microscope respectively. The connecting layer 32 will be of greater or lesser thickness depending on the respective temperature of the holding portion when the applicator portion is injected thereonto."

Thus, the material of the connecting layer 32 is a defined mix of the materials of portion 18 and portion 30 which mix and mingle to form the claimed mixing layer. Such a defined mixing

layer is not shown in the Vayrette reference. In this regard, the Examiner's attention is drawn to the paragraph bridging columns 7 and 8 of the '314 document which sets forth the following:

    "Using the two-shot injectin molding technique which is well known in the prior art it is possible to produce, in a single mold and in a single piece, the connecting ring 26 from a rigid or semi-rigid material, the membrane 130 from elastomer, and the base 22 with the teeth 20 from a rigid or semirigid material.".

Accordingly, it is respectfully submitted that claim 57 as amended patentably defines over the sum total teachings of the prior art cited and applied by the Examiner under 35 U.S.C. 103. The early issuance of a formal notice of allowance is respectfully requested.

Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)</b> <b>FY 2009</b> <i>(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)</i>		Docket Number (Optional) 05-646	
Application Number 10/553,251		Filed January 31, 2007	
For <input type="checkbox"/> Applicant and process for the production of an applicator			
Art Unit 3732		Examiner R. K. Doan	
This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application. The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):			
	<u>Fee</u>	<u>Small Entity Fee</u>	
<input type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$130	\$65	\$ _____
<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$490	\$245	\$ _____
<input checked="" type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$1110	\$555	\$ <u>620</u>
<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1730	\$865	\$ _____
<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2350	\$1175	\$ _____
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.			
<input type="checkbox"/> A check in the amount of the fee is enclosed.			
<input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.			
<input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account.			
<input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number <u>02-0184</u> .			
<b>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</b>			
I am the <input type="checkbox"/> applicant/inventor.			
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71.			
Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).			
<input checked="" type="checkbox"/> attorney or agent of record. Registration Number <u>28,395</u>			
<input type="checkbox"/> attorney or agent under 37 CFR 1.34.			
Registration number if acting under 37 CFR 1.34 _____			
<u>/Gregory P. LaPointe #28395/</u>		<u>September 15, 2010</u>	
Signature		Date	
<u>Gregory P. LaPointe</u>		<u>203-777-6628</u>	
Typed or printed name		Telephone Number	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input type="checkbox"/> Total of _____ forms are submitted.			

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

## Privacy Act Statement

**The Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



## Electronic Patent Application Fee Transmittal

<b>Application Number:</b>	10553251			
<b>Filing Date:</b>	31-Jan-2007			
<b>Title of Invention:</b>	Applicator and process for the production of an applicator			
<b>First Named Inventor/Applicant Name:</b>	Georg Roeder			
<b>Filer:</b>	Gregory P. LaPointe/Nancy Reid			
<b>Attorney Docket Number:</b>	05-646			
Filed as Large Entity				
<b>U.S. National Stage under 35 USC 371 Filing Fees</b>				
<b>Description</b>	<b>Fee Code</b>	<b>Quantity</b>	<b>Amount</b>	<b>Sub-Total in USD(\$)</b>
<b>Basic Filing:</b>				
<b>Pages:</b>				
<b>Claims:</b>				
<b>Miscellaneous-Filing:</b>				
<b>Petition:</b>				
<b>Patent-Appeals-and-Interference:</b>				
Notice of appeal	1401	1	540	540
<b>Post-Allowance-and-Post-Issuance:</b>				
<b>Extension-of-Time:</b>				

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Extension - 3 months with \$490 paid	1253	1	620	620
Miscellaneous:				
Total in USD (\$)				1160

## Electronic Acknowledgement Receipt

<b>EFS ID:</b>	8420504
<b>Application Number:</b>	10553251
<b>International Application Number:</b>	
<b>Confirmation Number:</b>	1817
<b>Title of Invention:</b>	Applicator and process for the production of an applicator
<b>First Named Inventor/Applicant Name:</b>	Georg Roeder
<b>Customer Number:</b>	34704
<b>Filer:</b>	Gregory P. LaPointe/Nancy Reid
<b>Filer Authorized By:</b>	Gregory P. LaPointe
<b>Attorney Docket Number:</b>	05-646
<b>Receipt Date:</b>	15-SEP-2010
<b>Filing Date:</b>	31-JAN-2007
<b>Time Stamp:</b>	10:22:30
<b>Application Type:</b>	U.S. National Stage under 35 USC 371

### Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$ 1160
RAM confirmation Number	7297
Deposit Account	020184
Authorized User	

The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:

Charge any Additional Fees required under 37 C.F.R. 1.492 (National application filing, search, and examination fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.17 (Patent application and reexamination processing fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.19 (Document supply fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.20 (Post Issuance fees)

Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)

## File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Notice of Appeal Filed	sb0031.pdf	244633	no	2
			fd929419bee2c4e3770fcc7d8248220d828a2018		
Warnings:					
Information:					
2	Pre-Brief Conference request	sb0033.pdf	238925	no	2
			b09d974dac48d50c66a4408daa0a07979f7c90d2		
Warnings:					
Information:					
3	Amendment/Argument after Notice of Appeal	05-646_Attachment_to_PTOSB33_9-15-10.pdf	51412	no	4
			c36b23fc518414ffdc08dac6da7166098d88ef44		
Warnings:					
Information:					
4	Extension of Time	sb0022.pdf	322107	no	2
			79ab8b119a9b4ce462f2fb4b54d6060a3a87d6c9		
Warnings:					
Information:					
5	Fee Worksheet (PTO-875)	fee-info.pdf	31601	no	2
			e8e310c8819e9bbb3d5bca0d612bf5d909769ed1		
Warnings:					
Information:					
Total Files Size (in bytes):			888678		

**This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.**

**New Applications Under 35 U.S.C. 111**

**If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.**

**National Stage of an International Application under 35 U.S.C. 371**

**If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.**

**New International Application Filed with the USPTO as a Receiving Office**

**If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.**

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**NOTICE OF APPEAL FROM THE EXAMINER TO  
THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Docket Number (Optional)

05-646

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on \_\_\_\_\_

Signature \_\_\_\_\_

Typed or printed  
name \_\_\_\_\_In re Application of  
Georg RoederApplication Number  
10/553,251Filed  
January 31, 2007

For Applicator and process for the production of an applicator

Art Unit  
3732Examiner  
R. K. DoanApplicant hereby **appeals** to the Board of Patent Appeals and Interferences from the last decision of the examiner.The fee for this Notice of Appeal is (37 CFR 41.20(b)(1)) \$ 540

☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: \$ \_\_\_\_\_

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 02-0184.

☒ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

I am the

☐ applicant/inventor.

/Gregory P. LaPointe #28395/

Signature

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

Gregory P. LaPointe

Typed or printed name

☒ attorney or agent of record.  
Registration number 28,395

203-777-6628

Telephone number

☐ attorney or agent acting under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34. \_\_\_\_\_

September 15, 2010

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below\*.

☐ \*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 37 CFR 41.31. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

## Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.